

**RULES
OF
THE TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-2
RULES OF CONDUCT**

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1260-2-.01 SUPERVISION OF AFFILIATE BROKERS.

- (1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.
- (2) No principal broker shall engage a licensee (other than as a property manager) who lives more than fifty (50) miles by a straight line calculation from the firm office, unless the principal broker demonstrates in writing to the Tennessee Real Estate Commission's satisfaction that the distance involved is not unreasonable and that adequate supervision can be provided. For purposes of this rule, a property manager is defined as a licensee who engages exclusively in leasing and otherwise managing rental properties.
- (3) A licensee may be engaged only by a principal broker who is:
 - (a) engaged primarily in the real estate business; and
 - (b) accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006.

1260-2-.02 TERMINATION OF AFFILIATION.

- (1) Any licensee wishing to terminate his affiliation with a firm shall secure his release from the firm. The principal broker's supervisory responsibility shall terminate upon his signing of the release form. Within ten (10) days after the date of release, the licensee shall complete the required administrative measures for change of affiliation, temporary retirement, or (if

(Rule 1260-2-.02, continued)

ineligible for temporary retirement) placement in "inactive" status. Upon the signing of a release by the principal broker for a change of affiliation, the licensee shall not engage in any real estate transactions nor shall he act under a contract with another firm until completion and transmittal to the commission of the change of affiliation form, accompanied by the proper fee.

- (2) When a licensee terminates his affiliation with a former firm, he shall neither take nor use any property listings secured through the firm, unless specifically authorized by the principal broker.
- (3) The Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates. Upon demand by a licensee for his release from a firm, it shall be properly and promptly granted by the principal broker.

Authority: T.C.A. §§62-13-203 and 62-13-310. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed June 17, 1991; effective August 11, 1991.

1260-2-.03 OFFICES.

- (1) Signs. Each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission.
- (2) Zoning. An application for a license or change of location shall be accompanied by a written certification (from the proper governmental authority) of compliance with zoning laws and ordinances.
- (3) Branch Offices.
 - (a) For purposes of T. C. A. §62-13-309(d), a licensee is deemed to maintain a "branch" if the licensee:
 1. Advertises the office in any manner for the purpose of attracting the public;
 2. Has a mail drop at the office which is registered with and served by the United States Postal Service; or
 3. Invites or solicits telephone calls to the office (by such means as advertising or listing in a telephone directory).
 - (b) Model Homes and Modular Units. A model home may be utilized in a subdivision or on a commercial lot and a modular unit may be utilized in subdivisions which are under construction for purposes of soliciting business and will not be required to be licensed as a branch office as long as the model home or modular unit meets the following requirements:
 1. The model home or modular unit location and/or telephone number is only advertised in conjunction with advertising the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
 2. The model home or modular unit does not have a mail drop;

(Rule 1260-2-.03, continued)

3. The model home or modular unit is not the sole sales office for the firm;
4. The model home or modular unit is not utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T. C. A. §62-13-101, et seq.; and
5. The principal broker of the main firm office shall adequately supervise licensees operating from model homes or modular units as required by T. C. A. §62-13-312 and any rules promulgated thereunder.

Authority: T.C.A. §§ 62-13-203, 62-13-309 and 62-13-312. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 30, 1987; effective July 29, 1987. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1988; effective December 15, 1998. Amendment filed July 31, 2006; effective October 14, 2006.

1260-2-.04 TELEPHONE ANSWERING SERVICES. No broker shall post his license at a telephone answering service, nor shall any broker conduct the major part of his real estate by or through a telephone answering service; however, reasonable use of a telephone answering service by a broker is permitted.

Authority: T.C.A. §62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-2-.05 POST OFFICE BOXES. Use of a post office box as a business location is prohibited. However, a post office box may be included in a business address for the purpose of receiving mail.

Authority: T.C.A. §62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-2-.06 REPEALED.

Authority: T.C.A. §63-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989.

1260-2-.07 “NET PRICE” LISTING. No broker or affiliate broker shall accept or enter a listing based on a “net price” (i.e., a price excluding the customary commission and expenses associated with the sale).

Authority: T.C.A. §62-1311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-2-.08 OFFERS TO PURCHASE. A broker or affiliate broker promptly shall tender every written offer to purchase or sell obtained on a property until a contract is signed by all parties. Upon obtaining a proper acceptance of an offer to purchase, or any counteroffer, a broker or affiliate broker promptly shall deliver true executed copies of same, signed by the seller, to both the purchaser and the seller. Brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction

(Rule 1260-2-.08, continued)

are included in the contract to purchase. In the event an offer is rejected, the broker or affiliate broker shall request the seller to note the rejection on the offer and return the same to the offeror or the offeror's agent.

Authority: T.C.A. §§ 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed July 31, 2006; effective October 14, 2006.

1260-2-.09 DEPOSITS AND EARNEST MONEY.

- (1) Each broker shall maintain a separate escrow account for the purpose of holding any funds which may be received in his fiduciary capacity as deposits, earnest money, or the like.
- (2) An affiliate broker shall pay over to the broker with whom he is under contract all deposits and earnest money immediately upon receipt.
- (3) Brokers are responsible at all times for deposits and earnest money accepted by them or their affiliate brokers, regardless of whether such funds are actually held by some other person or firm.
- (4) Where a contract authorizes a broker to place funds in an escrow or trustee account, the broker shall clearly specify in the contract:
 - (a) the terms and conditions for disbursement of such funds; and
 - (b) the name and address of the person who will actually hold such funds.
- (5) A broker may properly disburse funds from an escrow or trustee account:
 - (a) upon a reasonable interpretation of the contract which authorizes him to hold such funds;
 - (b) upon securing a written agreement which is signed by all parties having an interest in such funds, and is separate from the contract which authorizes him to hold such funds;
 - (c) at the closing of the transaction;
 - (d) upon the rejection of an offer to purchase, sell, rent, lease, exchange, or option real estate;
 - (e) upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate.
 - (f) upon filing an interpleader action in a court of competent jurisdiction; or
 - (g) upon the order of a court of competent jurisdiction.
- (6) Funds in escrow or trustee accounts shall be disbursed in a proper manner without unreasonable delay.
- (7) No postdated check shall be accepted for payment of a deposit or earnest money, unless otherwise provided in the offer.

(Rule 1260-2-.09, continued)

- (8) Earnest money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer, unless the offer contains a statement such as "Earnest money to be deposited by:".

Authority: T.C.A. §62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985.

1260-2-.10 CLOSING STATEMENTS. If a broker acts as closing agent he shall provide copies of the closing documents to each customer or client.

Authority: T.C.A. §62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-2-.11 PERSONAL INTEREST.

- (1) No broker or affiliate broker shall, either directly or indirectly through a third party, purchase for himself or attempt to purchase or acquire any interest in or option to purchase property listed with him or with his company, or property regarding which he or his company has been approached by the owner to act as broker, without first making a full disclosure of his true position to the owner of the property or to any prospective purchaser for which he has acted for as a client or customer. After acquiring any such personal interest, either directly or indirectly, the broker or affiliate broker shall make a full disclosure of his true position to prospective purchasers who tender offers to buy the property.
- (2) All licensees shall identify themselves as a licensee when buying or selling property for themselves.

Authority: T.C.A. §62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-2-.12 ADVERTISING.

- (1) All advertising, regardless of its nature and the medium in which it appears, which promotes the sale or lease of real property, shall conform to the requirements of this rule.
- (2) General Principles
 - (a) No licensee shall advertise to sell, purchase, exchange, rent, or lease property in a manner indicating that the licensee is not engaged in the real estate business.
 - (b) All licensees shall advertise under the firm name offers to purchase, sell, rent, or lease any property. All advertising shall be under the direct supervision of the principal broker and shall list the firm name and telephone number.
 - (c) No licensee shall post a sign in any location advertising property for sale without written authorization from the owner of the advertised property or the owner's agent.
- (3) A licensee is exempt from paragraph (2) of this rule if the licensee's advertising includes the designation "owner/agent" and the property is not listed.
- (4) Advertising for Franchise or Cooperative Advertising Groups.

(Rule 1260-2-.12, continued)

- (a) Any licensee using a franchise trade name or advertising as a member of a cooperative group shall clearly and unmistakably indicate in the advertisement his name, broker or firm name, and firm telephone number (as registered with the Tennessee Real Estate Commission) adjacent to any specific properties advertised for sale or lease in any media.
- (b) Any licensee using a franchise trade name or advertising as a member of a cooperative group, when advertising other than specific properties for sale or lease, shall cause the following legend to appear in the advertisement in a manner reasonably calculated to attract the attention of the public: "Each (Franchise Trade Name or Cooperative Group) Office is Independently Owned and Operated."
- (c) Any licensee using a trade name on business cards, contracts, or other documents relating to real estate transactions shall clearly and unmistakably indicate thereon:
 - 1. his name and firm telephone number (as registered with the Commission) and:
 - 2. the fact that his office is independently owned and operated.

Authority: T.C.A. §62-13-203, 62-13-301 and 62-13-310(b). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998. Amendment file July 31, 2006; effective October 14, 2006.

1260-2-.13 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987.

1260-2-.14 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.15 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.16 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.17 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Rule Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

(Rule 1260-2-.18, continued)

1260-2-.18 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.19 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.20 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.21 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.22 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.23 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.24 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.25 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.26 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.27 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original Rule filed September 13, 1978; effective October 30, 1978. Repealed: filed March 3, 1980; effective April 27, 1980.

1260-2-.28 REPEALED.

(Rule 1260-2-.28, continued)

Authority: T.C.A. §62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.29 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.30 REPEALED.

Authority: T.C.A. §62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.31 REPEALED.

Authority: T.C.A. §62-1309. **Administrative History:** Original rule filed November 14, 1978; effective December 29, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-2-.32 CIVIL PENALTIES.

- (1) The Commission may, in a lawful proceeding respecting any person required to be licensed by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

	<u>Violation</u>	<u>Penalty</u>
	T.C.A. §62-13-103(b)	\$ 50 - 1000
	T.C.A. §62-13-301	50 - 1000
	T.C.A. §62-13-312(b)	
(1)		250-1000
(2)		200- 900
(3)		300-1000
(4)		100- 800
(5)	(Deleted by 1988 Amendment)	
(6)		300-1000
(7)		200- 900
(8)		300-1000
(9)		100- 800
(10)		200- 900
(11)		300-1000
(12)		250-1000
(13)		300-1000
(14)		300-1000
(15)		50-1000
(16)		250-1000
(17)		250- 750
(18)		200- 900
(19)		200- 950
(20)		250-1000
(21)		250-1000
(22)		200-1000
(23)		100-1000

<u>Violation</u>	<u>Penalty</u>
T.C.A. §62-25-103(a)	50-1000

(Rule 1260-2-.32, continued)

T.C.A. §62-25-107(b)

(1)	250-1000
(2)	250-1000
(3)	300-1000
(4)	50-1000

T.C.A. §66-32-121(f)

(1)	\$ 250-1000
(2)	100-1000
(3)	200-1000
(4)	300-1000
(5)	250-1000
(6)	250-1000
(7)	400-1000
(8)	350-1000
(9)	400-1000
(10)	250-1000

- (2) With respect to any person required to be licensed by the Commission as a real estate broker who is not licensed, the Commission may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
T.C.A. §62-13-102	\$1,000
T.C.A. §62-13-103	\$1,000
T.C.A. §62-13-105	\$1,000
T.C.A. §62-13-109	\$1,000
T.C.A. §62-13-110	\$1,000
T.C.A. §62-13-301	\$1,000
T.C.A. §62-13-312	\$1,000

- (3) Each day of a continued violation may constitute a separate violation.
- (4) In determining the amount of a civil penalty the Commission may consider such factors as the following:
- (a) whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of non-compliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§56-1-308 and 62-13-203. **Administrative History:** New rule filed June 4, 1985; effective July 4, 1985. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed October 15, 1990; effective November 29, 1990. Amendment filed October 1, 1998; effective December 15, 1998.

1260-2-.33 GIFTS AND PRIZES.

- (1) A licensee may offer a gift, prize, or other valuable consideration as an inducement to the purchase, listing, or lease of real estate only if the offer is made:
- (a) Under the sponsorship and with the approval of the firm with whom the licensee is affiliated; and
 - (b) In writing, signed by the licensee, with disclosure of all pertinent details, including but not limited to:
 - 1. accurate specifications of the gift, prize, or other valuable consideration offered;
 - 2. fair market value;
 - 3. the time and place of delivery; and
 - 4. any requirements which must be satisfied by the prospective purchaser or lessor.

Authority: T.C.A. §62-13-203 and 62-13-203(b). **Administrative History:** New rule filed September 16, 1987; effective October 31, 1987. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 3, 2007; effective February 16, 2008.

1260-2-.34 INTERPLEADER FORM.

Actions in the nature of interpleader, in which the value of money which is the subject of the action does not exceed the jurisdictional limit of General Sessions Court, may be filed in General Sessions Court pursuant to T.C.A. §16-15-731. The following form may be used, as appropriate, alone, or in conjunction with forms currently used by the General Sessions Court in which the action is to be filed.

IN THE GENERAL SESSIONS COURT OF
_____ COUNTY, TENNESSEE

Plaintiff

General Sessions No. _____

v.

Defendant

Defendant

PETITION TO INTERPLEAD FUNDS

STATE OF TENNESSEE
COUNTY OF _____

_____, being duly sworn, deposes and says:

I

(Rule 1260-2-.34, continued)

_____, the defendant, resides at _____, in the above-named county, and the mailing address of the defendant is _____.

II

(Rule 1260-2-.34, continued)

_____, the defendant, resides at _____, in the above-named county and the mailing address of the defendant is _____.

III

The Plaintiff has custody or possession of money in the amount of \$_____, held pursuant to the following:

IV

Plaintiff has no interest in this money. The defendants claim or may claim be entitled to such money; the defendant's claims to the money are adverse.

V

The plaintiff deposits herewith into the court \$_____ which equals the amount of such money to be invested in accordance with the order of the court and will abide with the judgment of the court as to the final disposition thereof, and therefore, requests to be dismissed from this action.

Subscribed to and sworn before me this _____ day of _____, 19____.

NOTARY PUBLIC

My commission expires _____

ORDER

To each of the within named defendants:

You are hereby directed to appear and answer the foregoing claim and to have with you all books, papers, and witnesses needed by you to establish your claim to such money. This matter shall be heard on the _____ day of _____, 19____, at _____ o'clock _____ m.

Be advised that failure to appear may result in a judgment adverse to your interests which would determine or foreclose your claim to the above-described money as well as the disposition thereof, and for the costs of this action.

Enter this the _____ day of _____, 19____.

Authority: T.C.A. §§62-13-203 and 16-15-731. **Administrative History:** New rule filed November 21, 1988; effective January 5, 1989. Amendment filed March 24, 1994; effective June 7, 1994.

1260-2-.35 REPEALED.

Authority: T.C.A. §62-13-203. **Administrative History:** Original rule filed October 15, 1990; effective November 29, 1990. Amendment filed November 4, 1991; effective December 20, 1991. Amendment

(Rule 1260-2-.36, continued)

filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998.

1260-2-.36 EXCLUSIVE BUYER REPRESENTATION AGREEMENTS.

An exclusive buyer representation agreement is an agreement in which a licensee is engaged to represent a buyer in the purchase of a property to the exclusion of all other licensees. When entering into any such agreement a licensee must advise and confirm in writing to such buyer the following:

- (1) that the buyer should make all arrangements to view or inspect a property through the licensee and should not directly contact other licensees;
- (2) that the buyer should immediately inform any other licensee the buyer may come into contact with (for example, at an open house) that he or she is represented by the licensee; and
- (3) whether the buyer will owe a commission in the event the buyer purchases a property without the assistance of the licensee through another licensee or directly from an owner.

Authority: T.C.A. §62-13-203, 62-13-401, 62-13-402, 62-13-404 and 62-13-405. **Administrative History:** New rule filed July 31, 2006; effective October 14, 2006.

1260-2-.37 SEPTIC SYSTEM INSPECTION LETTERS. A licensee preparing an offer to buy shall provide in the offer and make the buyer aware that, for a fee, a septic system inspection letter is available through the Tennessee Department of Environment and Conservation, Division of Ground Water Protection.

Authority: T. C. A. §§ 62-13-203 and 62-13-403. **Administrative History:** Original rule filed December 3, 2007; effective February 16, 2008.